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BANNER & WITCOFF, LTD. TEN SOUTH WACKER DRIVE SUITE 3000 CHICAGO, IL 60606				
EXAMINER				
MACHUGA, JOSEPH S				
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3762				

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/998,733	Applicant(s) ISTVAN ET AL.	
	Examiner Joseph S. Machuga	Art Unit 3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-104 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-104 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the cradle of claims 8,13 and 18 and the X-pattern of claims 49 and 61 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 43 and 44 are rejected under 35 U.S.C. 101 because they are identical to claims 38 and 39.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 82, 83, 96 and 97 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim is

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confusing because the recited both apparatus limitations and method limitations.

Therefore the exact scope of the claim is indefinite.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

6. Claims 47, 50 and 51 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Price #6141575.

Price discloses a base layer 11, electrically conductive elements 25, shielding layer 29, 1st insulating layer 30, second insulating layer 31 and 3rd insulating layer 32.

7. Claims 66-68 and 70-73 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Delvin et al #5813404.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, 9-12, 19, 26, 85-88, 92-95 and 98 are rejected under 35

U.S.C. 103(a) as being unpatentable over Segalowistz #5307818 .

Segalowistz discloses a wireless monitoring system. As illustrated in the embodiments of Figure 18+ the device includes ECG sensors (361), a wireless transmitter (372) and a receiving base station that attaches to a display. The reference teaches that the output can alternately be fed directly to a monitor (note column 11, lines 1-11) through 3 input leads as illustrated in figure 1a. The reference also teaches adding signal lights to the sensors to indicate whether a output is being recorded (note for example the embodiment of Figure 12A.) Not disclosed by this reference are the terminals and the user interface on the base station. However, it would have been obvious to one of ordinary skill in the art to use connectors to attach the 3 leads to the monitor since it's one well known method of attaching electrical wires. To add signal lights to the base to indicate whether the base unit is receiving transmission would have also been obvious given Segalowistz's teaching of this feature to inform the user that the device is operating properly.

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3. Claims 2, 3, 20, 89, 90, 96, 97 and 99-104 are rejected under 35 U.S.C. 103(a) as being unpatentable over Segalowitz #5307818 in view of either Olejniczak #6150951 or De La Huerga #6139495.

4.

Segalowistz discloses a wireless monitoring system. As illustrated in the embodiments of Figure 18+ the device includes a ECG sensors (361), a wireless transmitter (372) and a receiving base station that attaches to a display. The reference teaches that the output can alternately be fed directly to a monitor (note column 11, lines 1-11) through 3 input leads as illustrated in figure 1a. The reference also teaches adding signal lights to the sensors to indicate whether a output is being recorded (note for example the embodiment of Figure 12A.) Not disclosed by this reference are the terminals, the user interface on the base station and the token key recited in claims 2 and 3.

Both Olejniczak and De La Huerga teach the use of token keys to pair the base unit to the transmitter. This assures that the proper signal is received and matched.

It would have been obvious to one of ordinary skill in the art to add token keys to the base station given either Olejniczak and De La Huerga teaching that this feature assures that the base station is recording the proper signal.

It would also have been obvious to one of ordinary skill in the art to use connectors to attach the 3 leads to the monitor since it's one well known method

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of attaching electrical wires. Finally, to add signal lights to the base to indicate whether the base unit is receiving transmission would have also been obvious given Segalowistz's teaching of this feature to inform the user that the device is operating properly.

5. Claims 5, 6 and 84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Segalowistz #5307818 in view of Minoz #6115622.

Segalowistz discloses a wireless monitoring system. As illustrated in the embodiments of Figure 18+ the device includes a ECG sensors (361), a wireless transmitter (372) and a receiving base station that attaches to a display. The reference teaches that the output can alternately be fed directly to a monitor (note column 11, lines 1-11) through 3 input leads as illustrated in figure 1a. The reference also teaches adding signal lights to the sensors to indicate whether a output is being recorded (note for example the embodiment of Figure 12A.) Not disclosed by this reference are the terminals, the user interface on the base station and the removable body unit.

.Minoz discloses a sensor that records medical data. The system includes a body electronic unit that is removable connected to the chest assembly making the device interchangeable, removable and easier to use and operate. Given Minoz's teaching it would have been obvious to one of ordinary skill in the art to make the body electronic unit in Segalowistz's device independent of the sensors and

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removable to make the components removable, interchangeable and easier to use. To add a surge protector to signal conditioner 21 would have been obvious to one of ordinary skill in the art since it is desirable to protect the delicate equipment. It would also have been obvious to one of ordinary skill in the art to use connectors to attach the 3 leads to the monitor since it's one well known method of attaching electrical wires. Finally, to add signal lights to the base to indicate whether the base unit is receiving transmission would have also been obvious given Segalowistz's teaching of this feature to inform the user that the device is operating properly.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Segalowistz #5307818 in view of Minoz #6115622 as applied to claim 5 above, and further in view of either Olejniczak #6150951 or De La Huerga #6139495.

7.

Both Olejniczak and De La Huerga teach the use of token keys to pair the base unit to the transmitter. This assures that the proper signal is received and matched.

It would have been obvious to one of ordinary skill in the art to add token keys to the base station given either Olejniczak and De La Huerga teaching that this feature assures that the base station is recording the proper signal.

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Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Segalowistz #5307818 in view of Minoz #6115622 as applied to claim 5 above, and further in view of Olson et al #5645571.

Olson et al disclose a defibrillator having a cradle that is used to store components of the device. This prevents elements from being lost or misplaced when the system is not in use. Given this teaching by Olson et al it would have been obvious to one of ordinary skill in the art to add a cradle to the system of Segalowitz and Minoz to prevent components from being lost.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Segalowistz #5307818 in view of Olson et al #5645571.

Olson et al discloses a defibrillator having a cradle that is used to store components of the device. This prevents those elements from being lost or misplaced when the system is not in use. Given this teaching by Olson et al it would have been obvious to one of ordinary skill in the art to add a cradle to the system of Segalowitz to prevent components from being lost.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Segalowistz #5307818 in view of Minoz #6115622 as applied to claims 5 and 6 above in further view of Price #6141575.

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9. Price discloses an ECG having a precordial overlay and electrodes that are removable coupled to a monitor through removable cables. This allows the assembly to be quickly and easily positioned. Given this teaching it would have been obvious to one of ordinary skill in the art to use removable cables with the precordial overlay and electrodes to make the device of the proposed combination easier to position.

10. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Segalowistz #5307818 in view of Minoz #6115622 and Price #6141575 as applied to claim 14 above in further view of either Olejniczak #6150951 or De La Huerga #6139495.

Both Olejniczak and De La Huerga teach the use of token keys to pair the base unit to the transmitter. This assures that the proper signal is received and matched.

It would have been obvious to one of ordinary skill in the art to add token keys to the base station of the proposed combination given either Olejniczak and De La Huerga teaching that this feature assures that the base station is recording the proper signal.

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Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Segalowitz #5307818 in view of Minoz #6115622 and Price #6141575 as applied to claim 14 above in further view of Olson et al #5645571.

11. Olson et al discloses a defibrillator having a cradle that is used to store components of the device. This prevents those elements from being lost or misplaced when the system is not in use. Given this teaching by Olson et al it would have been obvious to one of ordinary skill in the art to add a cradle to the system of Segalowitz and Minoz and Price to prevent components from being lost.

12. Claims 21, 22, 24 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minoz 6115622 in view of Delvin et al 5813404.

13. Minoz discloses a device for transmitting a wireless signal to a monitor. The system includes a body electronic unit and a connector assembly. Not disclosed by this reference is the system that turns on the device when a connection is detected. Delvin et al discloses an electrode assembly. The device includes a system that turns on the device when the connection is detected. To add controls that turn the device on when connections are made between the cables and transmitter in Minoz's device would have been obvious in view of Devlin et al, which teaches this system that both simplifies and automates the assembly.

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14. Claims 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minoz 6115622 in view of Delvin et al 5813404 as applied to claim 21 in further view of either Olejniczak #6150951 or De La Huerga #6139495.

Both Olejniczak and De La Huerga teach the use of token keys to pair the base unit to the transmitter. This assures that the proper signal is received and matched.

It would have been obvious to one of ordinary skill in the art to add token keys to the base station of the proposed combination given either Olejniczak and De La Huerga teaching that this feature assures that the base station is recording the proper signal.

15. Claims 28, 55-63 and 76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Delvin et al 5813404 in view of Price 6141575

16. Delvin et al discloses an electrode assembly. The device includes a system that turns on the device when the connection is detected. Not disclosed by this reference is the electrode retaining section. Price discloses an electrode assembly having a precordial overlay that helps position the sensors quickly and accurately. To add a precordial overlay to Devlin et al's device to help position

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the electrodes quickly and accurately would have been obvious given Prices teaching of this.

17. Claims 29 – 37 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Delvin et al 5813404 in view of Price 6141575 as applied to claim 28 above in further view of Segalowitz #5307818.

18. Segalowitz discloses an electrode assembly having expandable sections. This allows the device to be adapted to different size patients. Given this teaching by Segalowitz it would have been obvious to one of ordinary skill in the art to add expandable sections to the overlay of the proposed combination to make the device adaptable to different size patients.

19. Claims 38-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Delvin et al 5813404 in view of Price as applied to claim 28 above in further view of Etters et al #6010359.

20. Etters et al discloses a coupling having spring flanges. This helps secure the elements together. Given this teaching by Etters et al it would have been obvious to one of ordinary skill in the art to add spring flanges to the connection of the proposed combination to help secure the connection together.

Claims 47 - 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Price #6141575. It is considered obvious that the device is attached to some form of connector. To make the shielding in an x pattern rather than a rectangular

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pattern to reduce the material used in its construction would have been obvious to one of ordinary skill in the art.

21. Claims 52, 53, 64, 65, 69, 74 and 77-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Delvin et al 5813404 in view of Price 6141575 as applied to claims 28 and 55 above further in view of Minoz #6115622.

Minoz discloses a device for transmitting a wireless signal to a monitor. The system includes a body electronic unit and a connector assembly. Given Minoz's teaching it would have been obvious to one of ordinary skill in the art to add a wireless transmitter to the device of the proposed combination to reduce the number of cables between the patient and the monitor.

22. Claims 75 and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Delvin et al 5813404 in view of Price 6141575 and Minoz #6115622 as applied to claim 69 and 74 above in further view of either of either Olejniczak #6150951 or De La Huerga #6139495.

23.

Both Olejniczak and De La Huerga teach the use of token keys to pair the base unit to the transmitter. This assures that the proper signal is received and matched.

It would have been obvious to one of ordinary skill in the art to add token keys to the base station of the proposed combination given either Olejniczak and De La

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Huerga teaching that this feature assures that the base station is recording the proper signal.

Regarding claim 81 Olejniczak teaches using a tongues and grooves with the token key.

Claim 80 is rejected under 35 U.S.C. 103(a) as being unpatentable over Delvin et al 5813404 in view of Price 6141575 and Minoz #6115622 as applied to claim 69 and 74 above in further view of De La Huerga #6139495.

De La Huerga teaches securing a transmitter to the wearers arm. Given this teaching it would have been obvious to secure the transmitter of the proposed combination to an armband to provide an assemble that is easy to position.

24. Claim 91 is rejected under 35 U.S.C. 103(a) as being unpatentable over Segalowitz #5307818 in view of either Olejniczak #6150951 or De La Huerga #6139495 as applied to claim 89 in further view of Olson et al #5645571.

Olson et al discloses a defibrillator having a cradle that is used to store components of the device. This prevents those elements from being lost or misplaced when the system is not in use. Given this teaching by Olson et al it would have been obvious to one of ordinary skill in the art to add a cradle to the system of the proposed combination to prevent components from being lost.


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25. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph S. Machuga whose telephone number is 703-305-6184. The examiner can normally be reached on Monday-Friday; 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela D Sykes can be reached on 703-308-5181. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Joseph S. Machuga
Examiner
Art Unit 3762


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